

## **INITIAL COMMENTS OF UNDERSIGNED ELECTRIC PROVIDERS ON PROPOSED ELECTRIC INFRASTRUCTURE LEGISLATION**

The undersigned electric industry participants offer the follow comments regarding the proposed Michigan Electric Infrastructure Act as contained in HB 4575 (H-1 substitute) (Proposal). We have concerns with the Proposal as written, although we generally support improving Michigan's ability to develop electric infrastructure projects, streamlining procedures for electric high voltage projects, and addressing solutions to relieve constraints and reliability concerns in the state electric system with consideration of multiple cost-effective options that include generation and transmission. Our concerns with the Proposal are as follows:

**Customer Interest:** Costs of transmission projects developed under this process will be borne by all Michigan customers within the MISO footprint, per Section 9 (1). Project costs will be recovered over many years and allocation to areas without corresponding benefit, even within the state, could create conflicts over issues of causation and allocation. The most cost-effective solutions, including non-transmission alternatives, need to be considered along with cost causation.

**Eligible Developers:** As written, the Proposal limits the number of potential project developers through qualification requirements spanning four pages. We support use of the existing MISO process to qualify project developers and better recognition of potential stakeholders that could propose solutions and system improvements. The Proposal should not eliminate developers who have been prequalified to build transmission projects by MISO.

**Board Expertise:** The new transmission infrastructure board, called on to make rapid decisions in this complex area, will lack expertise in analysis and evaluation of electric transmission projects, with the possible exception of the MPSC Staff member. The directive to function independently of the MPSC and other agencies appears to cut off access to potential resources to aid in determinations.

**Board Procedures:** The Proposal lacks guidance regarding the procedures to be followed within the board in making its determinations. Consideration of the MISO regional planning and views on cost-benefit should occur in the early board process rather than after issuance of a notice to construct. The appeal right for the later MPSC certificate determinations does not extend to the board's determinations underlying the notice to construct. There are potential unresolved issues regarding board funding and its legal authority to appear in regulatory proceedings or enter into contracts, both contemplated by the Proposal.

**Narrow Project Focus:** The Proposal would direct the board to consider only transmission projects, and to approve projects that reduce congestion and energy costs. For the apparent purpose of strengthening the Upper Peninsula electric supply and delivery system, the Proposal assumes that increasing the capacity of the direct transmission connection between the Upper and Lower Peninsulas is the best cost/benefit solution for Michigan customers. However studies performed by MISO suggest that such a connection project may not be cost effective. The legislation should require coordination of transmission project review with integrated resource planning that also considers local generation, distribution and efficiency/demand side options. Transmission only projects might be approved by an inexperienced board without adequate

consideration of alternatives that might achieve better and more cost-effective results for Michigan customers. Further, the Proposal indicates that shifting to one Michigan resource adequacy zone is needed to address the UP problems, when the fix will actually require full consideration of various system solutions. Any Michigan zone may need to exclude the Western UP area not interconnected with the rest of Michigan's grid.

**Broad Scope:** Although the Proposal urges preference for projects connecting the UP and LP, in fact any transmission project could be developed under this procedure with costs assigned practically statewide. This could be applied to eliminate the concept that costs be assigned to those receiving the benefits, and instead allow broad geographic socializing of costs for future transmission projects that do not provide statewide and general benefits.

**Definition Scope:** The Proposal defines a "Transmission line" as meaning "all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more." This definition is overly broad and does not take into account that there are distribution and generation interconnection assets in Michigan that operate at voltages of 100 kilovolts or greater not considered "Transmission lines."

**Legal Standard:** The "public benefit" evaluation requirement of Act 30 for MPSC approval of transmission lines has been removed from the MPSC criteria in Section 6 (6). Apparently, the Notice to Construct issued by the board early in the process carries the binding determination of need and cost/benefit. Shifting these items to an inexperienced board with a singular focus on transmission and tight time frames presents reasons for concern.

Michigan's regulatory laws did not initially contemplate separation of transmission from utility operation that occurred with restructuring and there have been recent patches such as amendments to Act 30 (transmission certification) and Act 238 (eminent domain) to address the separation of the transmission function. The Proposal, by focusing on transmission and creating a limited issue board, could create a high potential for unwanted and unintended consequences. MISO has an established process for evaluating transmission projects and resource adequacy and the Proposal, even as it restricts cost impact to Michigan, may be setting up a federal-state legal conflict because bulk transmission is interstate commerce even if it occurs in a single state, where linked to the regional grid.

## **Michigan Electric and Gas Association (electric utility members)**

### **Consumers Energy Company**

### **DTE Electric**

### **Indiana Michigan Power Company**

### **Michigan Municipal Electric Association**

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